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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,763	07/18/2003	Ikuo Tachibana	ZUIKP0100USA	3134

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EXAMINER	
AFTERGUT, JEFF H	
ART UNIT	**PAPER NUMBER**
1733	

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/622,763	TACHIBANA ET AL.	
	Examiner	Art Unit	
	Jeff H. Aftergut	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 December 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *20-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *20-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 20-29 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent 2000-26015 in view of Ducker and any one of Glackin et al, Rogers et al or Ronn for the same reasons as presented in paragraph 6 of the Office action dated August 8, 2005.

3. Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 2 further taken with Borsuk et al for the same reasons as expressed in paragraph 7 of the Office action dated August 8, 2005.

Response to Arguments

4. Applicant's arguments filed s 20-35 have been fully considered but they are not persuasive.

As an initial note, the applicant's reply which included the verified translation of the priority document, has removed the reference to Japanese Patent 2001-478 from the prior art rejection. The disclosure in the translation of the priority document evidenced that applicant was indeed in possession of the invention prior to the effective date of Japanese Patent 2001-478 and thus applicant has perfected their foreign priority.

Regarding the prior art rejection, the applicant essentially has two arguments presented in the reply: (1) the reference to Japanese patent performed the cutting of the elastic without damaging the base sheet and there is no teaching in the reference of

application of a graphic in the area where the elastic was macerated, and; (2) the references to Glackin, Ronn or Rogers teach or suggest that one would have applied the graphic in the area where there was reduced elastic force or the step of reducing the elastic force in the vicinity of the graphic to prevent distortions in the graphic. These arguments are not persuasive.

Regarding the first argument presented by applicant, the applicant is advised that the reference to Japanese Patent '478 suggested a manner in which the elastic was capable of being deactivated and the reference to Ducker included these means as well as the melting and maceration of the elastic. One skilled in the art viewing Ducker would have readily appreciated that the techniques disclosed therein where functionally equivalent alternate expedients for making the elastic inactive in the regions where the elastic was not attached to the substrates to those suggested by Japanese Patent '015. One skilled in the art would have understood that such techniques were interchangeable. Applicant is advised that where, as here, two equivalents were known for the same desired function, an express suggestion of the desirability of the substitution of one for the other is not needed to render such substitution obvious, see In re Fout, 213 USPQ 532, In re Siebentritt, 152 USPQ 618. It should be noted that the manner in which the elastic was rendered inactive in Ducker include those techniques disclosed by applicant and one skilled in the art would have expected that performing the same operation on the elastics would have resulted in the same effects (i.e. a weakening of one of the first and/or second webs which sandwich the elastic there between.

Regarding applicant's second argument that there is no evidence that one skilled in the art would have applied the graphics in the region where the elastics have been removed and reduced in elasticity, the applicant is advised that the reference to Japanese Patent '015 suggested the removal of the elastic across a portion of the elastic which made up the waistband of the disposable absorbent article. The reference clearly provided regions 5 which had deactivated elastic. As depicted in Figure 3, the deactivated elastic was disposed in the region of the waistband of the absorbent disposable diaper. The reference admittedly failed to attach a graphic in this region. The reference did not attach any target strip upon the diaper. However, as envisioned by any one of Glackin, Ronn or Rogers, the use of a target strip in the waistband region of a disposable diaper would have been provided in order to reinforce the diaper in the region where the adhesive fasteners were to be applied to the same. Thus, one skilled in the art would have been motivated to incorporate a target strip in the waist region of Japanese Patent '015. The use of the same would have ensured that the fasteners were capable of being attached and reattached to the diaper without damaging the fasteners or the diaper back sheet material itself. It should be noted that the target strips of any one of Glackin, Ronn or Rogers included indicia thereon. It would have therefore been obvious to apply the graphics in the manner claimed. The fact that applicant chose to deactivate the elastic for a reason different than that envisioned in the prior art does not mean that it would have been unobvious to do so for the reasons provided in the prior art (i.e. provision of a target strip would have been desirable and the fact that the target strips have the graphical material thereon would have rendered the application of

the graphic information on the diaper obvious albeit for a different reason). Clearly, incorporation of a graphic in the region where the elastic material was macerated would have been obvious to one of ordinary skill in the art at the time the invention was made.

The applicant did not dispute the teachings of Borsuk and therefore it is believed that applicant agrees with the Office interpretation of the same. Applicant merely addressed the rejection of claims 30-32 by stating that the requirements of the claim were not satisfied because of the deficiencies with the proposed combination discussed above. However, because such deficiencies simply do not exist, claims 30-32 remain rejected for the same reasons as previously noted.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeff H. Aftergut
Primary Examiner
Art Unit 1733

JHA
February 7, 2006